SINGLE BENCH (9) (2)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 6396 /2006

PETITIONER — Gulpat Rai aged about 65 years, S/o Laharu R/o Mukampur, Gram Panchayat, Tahsil Jaijaipur, Distt. Janjgir Champa (C.G.)

VERSUS

RESPONDENTS

1. The State of Chhattisgarh, through Secretary, Panchayat and Rural Department, D.K. S Bhawan , Raipur
2. The Director, Panchayat, Raipur
3. The Additional Collector, Janjgir Champa.
4. Sub Divisional Officer (Revenue), Sakti Distt. Janjgir Champa
5. Up Sarpanch, Gram Panchayat Hasod, Tahsil Jaijaipur Distt. Janjgir Champa
6. Narsingh Sinha aged about 31 years, S/o Nandram Sinha, R/o Village Hasod Tahsil Jaijaipur Distt. Janjgir Champa
7. Chief Executive Officer, Janpad Panchayat Jaijaipur Distt. Janjgir

P.R. No. 6438/06 Presented by dated 14-11-06 P. Kotecha

RECEIVED-COPY 17/11/06 Clerk to A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA

(41)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 6396 of 2006

Petitioner : Gulpat Rai

Versus

Respondents : The State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice Satish K. Agnihotri.

Shri Parag Kotecha, counsel for the Petitioner.

Shri Satish Gupta, Dy. Govt. Advocate for the respondents No. 1 to 4/State.

ORDER

(Passed on 21st November, 2006)

1. The petitioner was an elected Sarpanch of Gram Panchayat Hasod, Block Jaijaipur District Janjgir-Champa. By order dated 24.7.2006 (Annexure P/1), the petitioner was removed from the post of Sarpanch under Section 40 (1) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 on the ground that he had encroached upon the Government land.

2. Being aggrieved, the petitioner had filed writ petition No. 4284/2006, impugning the order dated 24.7.2006, passed by the Sub-Divisional Officer (Revenue) Sakti Distt. Janjgir-Champa (Respondent No. 4 herein). This Court after

hearing learned counsel for the petitioner, therein, and other parties and learned counsel for respondent No. 3 as caveator observed that there was an alternative, efficacious remedy available to the petitioner under Rule 3 of the Chhattisgarh Panchayats (Appeal and Revision) Rules, 1995. The petition was accordingly dismissed vide order dated 14.8.2006, as not maintainable.

3. Thereafter, the petitioner filed an appeal against the order dated 24.7.2006 passed by the Sub Divisional Officer (Revenue) Sakti, District Janjgir-Champa before the Additional Collector, Janjgir-Champa in Revenue Appeal Case No. 256/A-89/05-06. The Additional Collector, while exercising his power as an appellate authority, set aside the order dated 24.7.2006 passed by the Sub Divisional Officer (Revenue), Sakti Distt. Janjgir-Champa and allowed the appeal in favour of the petitioner.

4. Being aggrieved, the respondent No. 6 filed a revision before the Director, Panchayat, Government of Chhattisgarh, Raipur in Revision Case No. 135/A-89/05-06. The Director on 4.10.2006 after hearing both the parties, declined to grant stay of the order passed by the Additional Collector.

5. Notwithstanding the facts that the order of the Additional Collector dated 13.9.2006 has been passed in favour of the petitioner, which has not been stayed by the Director, Panchayat, Chhattisgarh, Raipur, and further the Deputy Director, Panchayat & Social Welfare, Janjgir-Champa has already directed the Chief Executive Officer, Janpad Panchayat, Jaijaipur District Janjgir-Champa by letter dated 30.10.2006 (Annexure P/7) to comply with the orders passed by the Additional Collector, it is submitted that the concerned respondent has not complied with the order.

6. The petitioner has filed the present writ petition under Article 226 & 227 of the Constitution of India seeking execution of the order passed by the Collector. It appears that the petitioner has not made any attempt by going back to the Collector/Director, seeking compliance of their orders.

7. This Court, while exercising its jurisdiction under Article 226 & 227 of the Constitution of India cannot act as an executing Court. In fact, there should not be any grievance to the petitioner as the order dated 13.9.2006 has been passed in favour of the petitioner.

8. Thus, this writ petition is devoid of merit and deserves to be dismissed as not maintainable. However, in the facts and circumstances of the case, the petitioner is at liberty to take appropriate steps before appropriate forum seeking execution of the order dated 13.9.2006 passed by the Additional Collector in appeal. Accordingly, the writ petition is disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash